IN THE HIGH COURT OF JUDICATURE AT PATNA
Cr.Misc. No.24088 of 2007
SURESH KUMAR, Son of Late Bishundeo Yadav, R/o village Paroria, P.S. Hasanpur, District – Samastipur
….. Petitioner
Versus
1. STATE OF BIHAR
2. Drug Inspector, Samastipur.
….. Opp. Parties.
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7 10.11.2008 Heard Mr. Ashok Kumar Mishra, learned counsel for the petitioner as also Mr. Jharkhandi Upadhaya, learned A.P.P. for the State.

The petitioner through this application has prayed for the quashing of the entire prosecution arising out of Hasanpur P.S. Case No. 159 of 2004 registered for purported offences under sections 18(C), 27 (b) (ii) of the Drugs and Cosmetics Act, 1940, on the ground that the informant the Drug Inspector, Samastipur(II) was not empowered to file a written report for contravention of the provisions of the Drugs and Cosmetics Act.

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The point in issue is no more *res integra* in view of two decisions of this Court, namely, Hindustan Lever Ltd. Vs. State of Bihar, reported in 1997(1) BLJ 899 and Manju Kumar Vs. State of Bihar, reported in 2006(2) PLJR 549, wherein it has been held in categoric terms that prosecution under the Drugs and Cosmetics Act can be instituted only by filing a complaint by the Drugs Inspector and the police has no jurisdiction to register a F.I.R. and investigate into the offence under the Act as the same happens to be a violation of the provisions of section 32 as also section 22(2) of the Drugs and Cosmetics Act, 1940.

The learned A.P.P. is not in a position to dispute the legal proposition propounded by the two aforesaid decisions.

In that view of the matter this application is allowed and the criminal prosecution of the petitioner herein is hereby quashed.

(Abhijit Sinha, J.)

Spd/-

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